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UNITED STATES DISTRICT COURT

DISTRICT OF NEW MEXICO

LORENDA SANDERS and CECIL SANDERS,)

Plaintiffs,)

vs.)

JONELLE DESCHEENIE and DEPARTMENT)
OF HEALTH & HUMAN SERVICES,)

Defendant.)

Case No. _____

COMPLAINT FOR PERSONAL INJURIES

Plaintiffs allege:

1. Plaintiffs are residents of Thoreau, McKinley County, New Mexico.

2. Defendant Jonelle Descheenie is a resident of Fort Defiance, Arizona. Defendant Descheenie is an employee of the Indian Health Service located in Gallup, New Mexico. The area office is located in St. Michaels, Arizona.

3. This Court has jurisdiction over the parties and subject matter, and venue in this Court is proper. Defendants caused actions to occur in Thoreau, McKinley County, New Mexico out of which this claim arises.

FIRST CLAIM FOR RELIEF

(Negligence)

4. Plaintiffs reallege every allegation of the complaint.

1 5. On December 17, 2009, Defendant Descheenie, an employee and acting within the scope
2 of her duty to Defendant Department of Health & Human Services, caused an auto accident to occur in
3 Thoreau, McKinley County, New Mexico.

4 6. Plaintiffs' vehicle was heading westbound going around a curve.

5 7. Defendant Descheenie's vehicle was traveling eastbound going around a curve and
6 talking on her cell phone, drove into the westbound lane, which caused her to sideswipe Plaintiffs'
7 vehicle on the left side.

8 8. Defendant Descheenie was driving a company vehicle, which was owned by Defendant
9 Department of Health & Human Services at the time of the accident.

10 9. Defendant Descheenie, acting on her own behalf and acting within the scope of her duty
11 to Defendant Department of Health & Human Services, had a duty to exercise reasonable care in the
12 operation of a motor vehicle and a duty to maintain a proper lookout.

13 10. Defendant Descheenie, acting on her own behalf and acting within the scope of her duty
14 to Defendant Department of Health & Human Services, failed to use caution and was negligent at the
15 time of the accident which caused injuries to Plaintiffs.

16 11. Defendant Descheenie, acting on her own behalf and acting within the scope of her duty
17 to Defendant Department of Health & Human Services, breached her duty by failing to operate her
18 vehicle in a safe, reasonable and prudent manner, and by carelessly losing control of her vehicle.

19 12. At the time of the accident, there were certain laws in effect in Arizona that were violated
20 by Defendant Descheenie, including the following:

21 A. A.R.S. § 28-693. Reckless Driving.

22 13. Defendant Descheenie's violation of Arizona traffic laws were negligence per se.
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1 14. The negligence and negligence per se of Defendant Descheenie proximately caused the
2 subject accident, which resulted in bodily injury to Plaintiffs.

3 15. Because of the negligence and negligence per se of Defendant Descheenie, Plaintiffs
4 required medical care and incurred medical expenses.

5 16. Because of the negligence and negligence per se of Defendant Descheenie, Plaintiffs
6 suffered a loss of household services and other non-medical losses.

7 17. Because of the negligence and negligence per se of Defendant Descheenie, Plaintiffs
8 suffered emotional distress and physical pain and suffering.

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10 **SECOND CLAIM FOR RELIEF**

11 (Declaratory Relief)

12 18. Plaintiffs reallege every allegation of the complaint.

13 19. Plaintiffs are entitled under the laws of Arizona to be made whole by Defendant
14 Descheenie, whose negligence caused injuries.

15 20. Defendant Descheenie, acting on her own behalf and acting within the scope of her duty
16 to Defendant Department of Health & Human Services is liable for all of the damages recognized by
17 Arizona laws that were suffered by Plaintiffs due to the accident, even if not specifically enumerated
18 above.

19 21. Plaintiffs are entitled to declaratory relief from Defendant Descheenie, acting on her own
20 behalf and acting within the scope of her duty to Defendant Department of Health & Human Services
21 for Plaintiffs' losses.

22 22. Plaintiffs hereby demand a jury trial.

23 **RELIEF REQUESTED FROM THE COURT**

24 WHEREFORE, Plaintiffs request the Court to enter judgment as follows:
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- 1 A. For actual damages against Defendants in an amount to be proven at trial, pursuant to all
2 claims for relief;
3 B. For Plaintiffs' attorneys' fees and costs incurred and accruing herein.
4 C. For such other and further relief as the Court may deem appropriate.
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6 RESPECTFULLY SUBMITTED this 30th day of March, 2012.

7 *The Law Offices of David R. Jordan, P.C.*

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David R. Jordan, Esq.
Attorney for Plaintiffs
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